

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN SENATE APRIL 30, 2003

AMENDED IN SENATE APRIL 1, 2003

SENATE BILL

No. 761

Introduced by Senator McPherson

February 21, 2003

An act to amend Sections 1278 ~~and 1287~~, 1287, and 1308 of the Penal Code, relating to bail services.

LEGISLATIVE COUNSEL'S DIGEST

SB 761, as amended, McPherson. Bail services.

Existing law requires that certain information be provided in a written undertaking of bail.

This bill would require, in addition, that an undertaking of bail include the bail agent license number and other specified information.

Existing law prohibits a court or magistrate from accepting any person or corporation as surety on bail if a specified summary judgment against that person or corporation remains unpaid for a certain period, except that, if an action or proceeding is initiated during that period to determine the validity of the judgment, this prohibition does not apply until that action or proceeding has finally been determined.

This bill would, in addition, prohibit a court or magistrate from accepting any undertaking of bail from any agency, person, or corporation that has any ownership or shareholder interest in any bail agency, or from an agency that has a controlling person, as defined, who has executed and delivered an undertaking of bail that remains unpaid for a specified period, except in the circumstance described above. It would provide that the posting of an undertaking of bail by an

unauthorized person, corporation, or agent under these provisions shall not operate, absent other legal grounds, as the basis for exonerating the undertaking of bail.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1278 of the Penal Code is amended to
2 read:

3 1278. (a) Bail is put in by a written undertaking, executed by
4 two sufficient sureties (with or without the defendant, in the
5 discretion of the magistrate), and acknowledged before the court
6 or magistrate, in substantially the following form:

7
8 An order having been made on the ____ day of ____, 20__, by
9 ____, a judge of the ____ Court of ____ County, that ____ be held
10 to answer upon a charge of (stating briefly the nature of the
11 offense), upon which he or she has been admitted to bail in the sum
12 of ____ dollars (\$____); we, ____ and ____, of ____ (stating their
13 place of residence and occupation), hereby undertake that the
14 above-named ____ will appear and answer any charge in any
15 accusatory pleading based upon the acts supporting the charge
16 above mentioned, in whatever court it may be prosecuted, and will
17 at all times hold himself or herself amenable to the orders and
18 process of the court, and if convicted, will appear for
19 pronouncement of judgment or grant of probation, or if he or she
20 fails to perform either of these conditions, that we will pay to the
21 people of the State of California the sum of ____ dollars (\$____)
22 (inserting the sum in which the defendant is admitted to bail). If
23 the forfeiture of this bond be ordered by the court, judgment may
24 be summarily made and entered forthwith against the said (naming
25 the sureties), and the defendant if he or she be a party to the bond,
26 for the amount of their respective undertakings herein, as provided
27 by Sections 1305 and 1306.

28
29 (b) Every undertaking of bail shall contain the bail agent
30 license number of the owner of the bail agency issuing the
31 undertaking along with the name, address, and phone number of
32 the agency, regardless of whether the owner is an individual,



partnership, or corporation. The bail agency name on the undertaking shall be a business name approved by the Insurance Commissioner for use by the bail agency owner, and be so reflected in the public records of the commissioner. The license number of the bail agent appearing on the undertaking shall be in the same type size as the name, address, and phone number of the agency.

SEC. 2. Section 1287 of the Penal Code is amended to read:

1287. (a) The bail shall be put in by a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the court or magistrate), and acknowledged before the court or magistrate, in substantially the following form:

An indictment having been found on the ____ day of ____, 20__, in the Superior Court of the County of ____, charging ____ with the crime of ____ (designating it generally) and he or she having been admitted to bail in the sum of ____ dollars (\$____), we, ____ and ____, of ____ (stating their place of residence and occupation), hereby undertake that the above-named ____ will appear and answer any charge in any accusatory pleading based upon the acts supporting the indictment above mentioned, in whatever court it may be prosecuted, and will at all times render himself or herself amenable to the orders and process of the court, and, if convicted, will appear for pronouncement of judgment or grant of probation; or, if he or she fails to perform either of these conditions, that we will pay to the people of the State of California the sum of ____ dollars (\$____) (inserting the sum in which the defendant is admitted to bail). If the forfeiture of this bond be ordered by the court, judgment may be summarily made and entered forthwith against the said (naming the sureties, and the defendant if he or she be a party to the bond), for the amount of their respective undertakings herein, as provided by Sections 1305 and 1306.

(b) Every undertaking of bail shall contain the bail agent license number of the owner of the bail agency issuing the undertaking along with the name, address, and phone number of the agency, regardless of whether the owner is an individual, partnership, or corporation. The bail agency name on the undertaking shall be a business name approved by the Insurance

1 Commissioner for use by the bail agency owner, and be so
2 reflected in the public records of the commissioner. The license
3 number of the bail agent appearing on the undertaking shall be in
4 the same type size as the name, address, and phone number of the
5 agency.

6 *SEC. 3. Section 1308 of the Penal Code is amended to read:*

7 1308. (a) No court or magistrate shall accept any person or
8 corporation as surety on bail if any summary judgment against that
9 person or corporation entered pursuant to Section 1306 remains
10 unpaid after the expiration of 30 days after service of the notice of
11 the entry of the summary judgment, ~~provided that~~. *Additionally,*
12 *no court or magistrate shall accept any undertaking of bail from*
13 *any agency, person, or corporation that has any ownership or*
14 *shareholder interest in any bail agency, or from an agency that has*
15 *a controlling person, as defined in subdivision (b) of Section*
16 *1668.5 of the Insurance Code, who has executed and delivered an*
17 *undertaking of bail that remains unpaid after the expiration of 30*
18 *days after the service of the notice of the entry of the summary*
19 *judgment. However, if during the 30 days an action or proceeding*
20 *available at law is initiated to determine the validity of the order*
21 *of forfeiture or summary judgment rendered on it, this section shall*
22 *be rendered inoperative until that action or proceeding has finally*
23 *been determined, provided on the condition that, if an appeal is*
24 *taken, an appeal bond is posted in compliance with Section 917.1*
25 *of the Code of Civil Procedure. The posting of an undertaking of*
26 *bail by an unauthorized person, corporation, or agent under this*
27 *section shall not operate, absent other legal grounds, as the basis*
28 *for exonerating the undertaking of bail.*

29 (b) The clerk of the court in which the judgment is rendered
30 shall serve notice of the entry of judgment upon the judgment
31 debtor within five days after the date of the entry of the summary
32 judgment.